

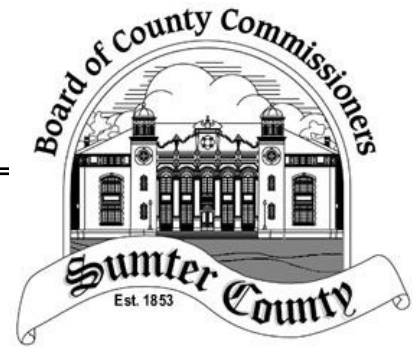
Board of County Commissioners

Division of Planning & Development

Planning Services Department

910 N. Main Street, Suite 301 • Bushnell, FL 33513 • Phone (352) 793-0270 • FAX: (352) 793-0274

Website: <http://sumtercountyfl.gov/BuildingServices>



Memo

To: Zoning & Adjustment Board
From: Brad Cornelius, AICP, Planning Manager
Date: March 9, 2010
RE: Review and Recommendation of Proposed Ordinance
Regarding Commercial & Non-Commercial Temporary
Uses

On December 7, 2009, the Zoning & Adjustment Board (ZAB) considered the proposed ordinance to amend the County's regulations regarding commercial and non-commercial temporary uses. At that meeting, the ZAB raised several concerns and regarding the proposed ordinance and tabled the discussion. On December 8, 2009, the Board of County Commissioners (BOCC), sharing many of the same concerns as the ZAB, decided not to set the proposed ordinance for public hearing and requested the item be brought back before the BOCC at a future workshop. On February 16, 2010, the BOCC discussed the proposed ordinance at a workshop. As a result of the information provided by the BOCC at the workshop, staff revised the proposed ordinance to better reflect the direction and intent of the BOCC. Specifically, the major changes to proposed ordinance from the original draft are as follows:

- Deleted the prohibition of competing fairs/carnivals/concerts during and 21 days before the Sumter County Fair;

Bradley T. Cornelius, AICP
Planning Manager
(352) 793-0270

Bradley S. Arnold,
County Administrator
(352) 793-0200
910 N. Main Street
Bushnell, FL 33513

Richard "Dick" Hoffman, Dist 1
(352) 753-1592 or 793-0200
910 N. Main Street
Bushnell, FL 33513

Doug Gilpin, Dist 2
Chairman
(352) 793-0200
910 N. Main Street
Bushnell, FL 33513

Don Burgess, Dist 3
Vice Chairman
(352) 753-1592 or 793-0200
910 N. Main Street
Bushnell, FL 33513

Garry Breeden, Dist 4
(352) 793-0200
910 N. Main Street
Bushnell, FL 33513

Randy Mask, Dist 5
2nd Vice Chairman
Office: (352) 793-0200
Home: (352) 793-3930
910 N. Main Street
Bushnell, FL 33513

- Deleted limitation that a parcel can only be used once every six months for temporary commercial activities;
- Deleted 30 day rest period between temporary vehicle and watercraft sales;
- Clarified time period for seasonal sales of holiday items only apply to Transient Merchants;
- Generally, the proposed ordinance clarifies and codifies existing permitting procedures for temporary commercial and non-commercial activities and special events.

Attached is a marked up version of the proposed ordinance that reflects the changes to the proposed ordinance after the February 16, 2010, BOCC workshop. Those changes from the workshop are identified by red strikeout text and blue underline text. Pink highlighted text provides for a comment in the right margin of the page related to the particular ordinance section or change.

At the March 9, 2010, BOCC meeting, the BOCC set a public hearing for the consideration of the revised proposed ordinance on March 23, 2010. The purpose of the ZAB's review of the proposed revised ordinance on March 15, 2010, is to provide a recommendation to the BOCC for their March 23, 2010, public hearing.

REVISED ORDINANCE WITH EDITS
AFTER FEBRUARY 16, 2010 WORKSHOP

Red strikeouts are deletions and
blue underlines are additions.

Comments in right margin provided
for **pink highlighted** text.

ORDINANCE NO. _____

AN ORDINANCE OF SUMTER COUNTY, FLORIDA,
CLARIFYING AND REGULATING THE CONDITIONS FOR THE
ALLOWANCE OF TEMPORARY COMMERCIAL AND
NONCOMMERCIAL ACTIVITIES, TEMPORARY USES, ~~THE
REGULATION AND TIMING OF PRIVATE FAIRS AND
CARNIVALS,~~ DELETING ABILITY FOR STAFF TO
ARBITRARILY CLASSIFY A PROJECT AS A MAJOR PROJECT,
PROVIDING FOR SEVERABILITY, CONFLICTS, REPEALING,
AND CODIFICATION, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sumter County has seen extensive population growth since the provisions of the Sumter County Code of Ordinances and Land Development Code addressing temporary commercial activities and uses were last revised; and

WHEREAS, the Board of County Commissioners recognizes the need for the orderly management and permitting of temporary commercial and noncommercial activities as well as temporary uses, ~~including but not limited to fairs and carnivals;~~ and

WHEREAS, the Board of County Commissioners wishes to protect the economic viability of permanent commercial activities and, out of an abundance of concern about traffic and public safety, wishes to regulate temporary commercial activities; and

WHEREAS, the Board of County Commissioners recognizes the existing regulations for temporary commercial and noncommercial activities are internally inconsistent and difficult to interpret and administer; and

WHEREAS, the Board of County Commissioners recognizes the need to eliminate arbitrary classifications of projects; ~~and~~.

~~**WHEREAS**, the Board of County Commissioners recognizes the symbolic traditional and economic importance of the official annual Sumter County Fair; and~~

~~**WHEREAS**, the Board of County Commissioners wishes to protect the economic viability of the Sumter County Fair and, out of an abundance of concern about traffic and public safety, wishes to prohibit carnivals or similar events during the same week as the official Sumter County Fair.~~

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of the Sumter County, Florida as follows:

SECTION I: DEFINITION OF PEDDLER, STREET VENDO, TRANSIENT MERCHANT

Chapter 13, Article I, Section 13-41 of the Sumter County Code is hereby amended in that the following definitions of “Peddler”, “Street Vendor”, and “Transient Merchant” shall be incorporated alphabetically in the aforementioned section as appropriate:

Peddler means a person who sells or offers for sale merchandise or services or both by traveling from door to door, carrying any such merchandise if selling or offering to sell same, without operation from a fixed business location for the exhibition and sale of such merchandise or services or both. "Peddler" does not include persons who are invited to residences for specific sales of specific items or services.

Street vendor means a person who sells or offers for sale merchandise or services or both from a motor vehicle, a pushcart, wagon, mobile stand, or other moveable device or structure storing the merchandise. "Street vendor" does not include minor children operating lemonade or soft drink stands. "Street vendor" does not include operators of food, beverages, newspaper, or magazine self-service vending machines.

Transient merchant means a person who sells or offers for sale merchandise at any place in the county temporarily and who does not become a permanent merchant at such place and who, for the purpose of carrying on such business, hires, leases or occupies, either in whole or in part, a business location for the exhibition and sale of merchandise. "Transient merchant" includes the situation where a person sells or offers for sale merchandise at any place which does not have a business listing with a telecommunications firm under Federal Communications Commission regulations. "Transient merchant" does not include either an operator of a flea market or a person who conducts business out of a flea market.

Comment [b1]: These definitions are not new. These are moved from Section 14-76 Code of Ordinances.

SECTION II: DEVELOPMENT CLASSIFICATIONS

Chapter 13, Article II, Section 13-103 of the Sumter County Code is hereby amended as follows (~~strikeout text~~ are deletions and underline text are additions):

Section 13-103(a)(2)g. is hereby deleted.

~~g. Non commercial temporary activities; and commercial temporary activities that do not exceed the following limits (provided adequate provisions are made for sanitary, solid waste, traffic and other requirements):~~

- ~~1. Does not occur on more than ten (10) acres of land, and~~
- ~~2. Does not attract more than one hundred (100) persons for single performances or two hundred (200) persons per day for serial performances, and~~
- ~~3. Does not occur for more than three (3) consecutive days, or for more than twelve (12) days in any single year.~~

Section 13-103(b)(2)e. is hereby deleted.

~~e. Commercial temporary activities that do not exceed the following limits:~~

- ~~1. Does not occur on more than twenty (20) acres of land, and~~
- ~~2. Does not attract more than two hundred fifty (250) persons for single performances or five hundred (500) persons per day for serial performances.~~

Section 13-103(c)(2)e. is hereby deleted.

~~e. Commercial temporary activities that do not exceed the following limits:~~

- ~~1. Does not occur on more than twenty (40) acres of land, and~~
- ~~2. Does not attract more than five hundred (500) persons for single performances or one thousand (1,000) persons per day for serial performances.~~

Section 13-103(d)(2)f. is hereby deleted.

~~f. Commercial temporary activities that:~~

- ~~1. Occurs on more than forty (40) acres of land; and or~~
- ~~2. Attracts more than five hundred (500) persons for single performances or one thousand (1,000) persons per day for serial performances.~~

Section 13-103(d)(5)d. is hereby amended as follows:

d. Any development designated as a major development by the director, unless specified otherwise by the commission, because:

1. It is part of a larger development that does not qualify as a minor or medium development.
2. It should have major development review due to its complexity, location or potential for adverse impact to the community.

Comment [b2]: This section provided for the level of review based on certain thresholds for events. These thresholds are not effective and difficult to enforce. Consequently, staff recommends they be deleted.

~~3. It is a controversial project.~~

Comment [b3]: This is deleted to remove the ability for staff to arbitrarily classify a project as major.

SECTION III: TEMPORARY USES AND TEMPORARY ACTIVITIES:

Chapter 13, Article II, Section 13-363 of the Sumter County Code is hereby amended (~~strikeout text~~ are deletions and underline text are additions) as follows:

Sec. 13-363. Temporary uses and activities.

A. *General.* This use is hereby established to allow temporary uses and activities not normally permitted in the various land use zones, or activities for which permanent use is not desired. A temporary use (or temporary activity) is not a use of right and there is no presumption that it will be granted. No temporary use specified herein shall commence prior to receiving a use permit pursuant to article II, Division 3, of this chapter, and all development permits required for the installation of temporary structures or facilities.

(1) Non-commercial temporary activities and uses and commercial temporary activities and uses that do not exceed the following limits (provided adequate provisions are made for sanitary, solid waste, traffic and other requirements) shall be granted the necessary permits after staff review and approval.~~at staff's discretion:~~

a. Absent a specific exemption concerning acreage count by the Board of County Commissioners, said exemption to be granted only upon presentation of a rational basis for the request, the area utilized for such activities shall not exceed (10) acres of land whether a single parcel or contiguous parcels, and such land if used by a party other than the owner, must be specifically leased in writing for the intended purpose; and

Comment [b4]: Same as current regulation.

b. Such activities shall not may occur for no more than three (3) consecutive days, or for no more than twelve (12) days in any single year on one single parcel or contiguous parcels of land unless otherwise permitted through the provisions of this code or permitted by a specific exemption of the Board of County Commissioners upon presentation of a rational basis for such an exemption; and

~~c. No operator of non-commercial or commercial temporary activities or an affiliate thereof may occupy the same parcel or contiguous parcels of land under the terms of this section more than once every six months under any circumstances, unless otherwise specifically exempted herein or specifically exempted by the Board of County Commissioners based on the presentation of a rational basis for the request; and~~

Comment [b5]: Deleted. The time limitations in section b are sufficient.

d. ~~No~~ Operators of non commercial or commercial temporary activities shall operate or permit the conducting of business or the selling of merchandise ~~before~~ only between 8:00 a.m. ~~or after~~ and 9:00 p.m. unless the operator first acquires approval from the Board of County Commissioners.

Comment [b6]: Same as current regulation.

(2) Prohibited conduct. No operator of non commercial or commercial temporary activities not otherwise expressly addressed by the provisions of this code shall:

a. Use or occupy any portion of any County public park, street or alley, unless authorized by the Board of County Commissioners.

Comment [b7]: Clarify only applies to County owned facilities.

b. Stopping a passersby.

c. Yelling or making loud noise to attract persons to the place of business.

B. *Uses allowed and requirements.*

(3) *Medical Hardship.* Second principal residence on one (1) parcel of record in cases of extreme ~~personal~~ medical hardship, such as where a temporary residence, which may be an RV or mobile home, is needed to house a caregiver or care receiver for a relatively short period of time.

Comment [b8]: Clarify intent. No change from current regulation.

a. ~~The general~~ maximum period for which approval may be given is three (3) years, ~~however, for good cause,~~ The approving authority may ~~grant a longer period~~ approve multiple renewals of the temporary residence for additional terms not to exceed three (3) years each. However each renewal shall require a public hearing before the approving authority.

Comment [b9]: Clarify intent. No change from current regulation.

b. The second principal ~~building~~ residence must be removed from the property within the time set forth in the ~~variance~~ temporary use permit as approved, but in no event later than ~~ninety six (906) days~~ ninety six (906) days ~~months~~ of the expiration of the temporary use permit, or not later than ~~ninety six (906) days~~ ninety six (906) days ~~months~~ after recovery or relocation of the person receiving care, whichever occurs first.

Comment [b10]: Revise to make consistent with standard conditions placed by Zoning & Adjustment Board.

c. The caregiver and care receiver must reside on the property on a full time basis during the period prescribed herein. Occupants of the second principal residence shall be restricted to the caregiver or care receiver, the caregiver's or care receiver's spouse or partner, and the minor children of the caregiver or care receiver's spouse or partner.

Comment [b11]: Add to assure that intent of medical hardship is met and not used to simply provide an additional dwelling unit on property.

d. A signed letter from a Florida licensed medical doctor or doctor of osteopathy, which shall include his or her license number, stating the requirement for continuous necessary medical care and oversight of the care receiver must accompany the application for recognition of hardship under this section.

Comment [b12]: Add to reflect current procedure.

e. The wastewater disposal system servicing the second principal residence must be approved by Sumter County Environmental Health.

Comment [b13]: Add to be consistent with Florida Statutes.

(4) *Transient Merchants.* Transient merchants as defined in the Sumter County Code ~~may only~~ shall operate on parcels with an adopted future land use of commercial, mixed use or industrial under the Sumter County Comprehensive Plan, or a vested commercial or industrial zoning use as recognized pursuant to the land development code. Such use may only take place via written lease with the landowner. A detailed site plan must be provided to the County indicating boundaries of intended use, structures (including, but not limited to, tents), appropriate sanitation, parking areas and appropriate vehicular and pedestrian access, as determined by staff on a case by case basis. Said vehicular access must be approved in writing by the Florida Department of Transportation if a state maintained road is utilized after appropriate review. If a Sumter County maintained road is used for access, approval shall be required in writing from Sumter County Public Works. If the Transient Merchant utilizes a tent or other structure or utilizes electricity in any manner then they must obtain the proper permits from Sumter County Fire Rescue and Sumter County Building Department. Transient merchants, upon submittal of written proof from a church or school of permission to operate on church or school property, may operate on such property regardless of the property's designated future land use category.

Comment [b14]: Add to codify current permitting process. Provides for exemption for church or school property.

a. *Operators of temporary vehicle and watercraft sale lots:* With regard to the sale of the aforementioned vehicles, new or used, all of the ~~restrictions~~ regulations related to Transient Merchant activity stated in this code shall apply. As to frequency of use for vehicle sales, ~~no~~ parcel or contiguous parcels may be used for the sale of vehicles by the operator or any related entity for ~~more than~~ up to fourteen (14) consecutive days. Operators shall be allowed two "set up" and two "shut down" days prior to and subsequent to the 14 day sale period. The "set up" and "shut down" days shall not count against the allotted 14 day sale period described herein. ~~No less than thirty (30) days may elapse between the termination of such use (including the "shut down" period) and the commencement of the subsequent use (including the "set up" period).~~ No vehicle may be sold on the parcel or parcels at issue during the "set up" or "shut down" periods described herein. This is the sole provision in the Sumter County Code by which temporary vehicle sales lots shall be regulated with regard to the subjects addressed herein.

Comment [b15]: Consistent with current regulation. Deleted proposed 30 day rest period between sales.

b. *Transient Merchant ~~S~~seasonal sales of holiday items:* With regard to the sale of items by Transient Merchants for holidays the following time ~~limitations~~ periods shall apply:

1. Christmas trees, tree stands, and wreaths: Monday of the week of Thanksgiving to December 24.

2. Pumpkins: October 1 to October 31.

3. Fireworks: June 20 to July 5 and December 10 to January 2 (Section 791.01, Florida Statutes).

Comment [b16]: Revised to clarify only applies to sale of these items by Transient Merchants. Does not apply to permitted permanent commercial activities. This provision provides Transient Merchants a longer period of time to sell these seasonal items. Otherwise, the sale of these items by Transient Merchants is limited to only 3 consecutive days or 12 days within one-year.

(5) Street vendors: Street vendors as defined in the Sumter County Code ~~may only~~ shall operate on parcels with an adopted future land use of commercial, mixed use or industrial under the Sumter County Comprehensive Plan, or parcels designated as vested commercial or industrial, and ~~may only~~ shall operate on a daily basis (ceasing operations in the evening) and must remove all implements and evidence of operation daily upon close of business. Street vendors, upon submittal of written proof from a church or school of permission to operate on church or school property, may operate on such property regardless of the property's designated future land use category. Street vendors are exempt from ~~the restrictions of~~ Section 13-363(A)(1)b. and Section 13-363(A)(1)c.

Comment [b17]: Add to reflect current regulation of street vendors.

(6) Peddlers: Peddlers as defined in the Sumter County Code may operate within any designated future land use category under the Sumter County Comprehensive Plan, may operate daily, and must transact business on the parcel owned or controlled by the individual or entity engaging as a customer in the transaction or the right-of-way adjoining same. Peddlers are exempt from ~~the restrictions of~~ Section 13-363(A)(1)b. and Section 13-363(A)(1)c.

Comment [b18]: Add to reflect current regulation of peddlers.

(7) Special entertainment or religious events. Special events ~~such are~~ defined as temporary public assembly activities for recreational or religious purposes such as carnivals, circuses, music concerts (public or private), rodeos, tent revivals and other activities of a similar nature.

a. The maximum period for which approval may be given for a special entertainment or religious event is fourteen (14) ~~seven (7)~~ consecutive days or fourteen (14) ~~seven (7)~~ special events not to exceed one day per event per applicant (or applicants related by entity or principal) over a one-year period. The limitations of this subsection shall not apply to any event held at the Sumter County Fairgrounds.

Comment [b19]: No change to current regulation. Clarify that Sumter County Fairgrounds is exempt.

~~b. No carnival, circus, music concert open to the public, temporary amusement park or entertainment fair, without regard to management, ownership, or purpose, may be held in Sumter County during the same time period as the Sumter County Fair or a time period of twenty one (21) days prior to the beginning of the Sumter County Fair.~~

Comment [b20]: Delete as requested by Board.

b. Use requirements:

1. A written narrative provided by the applicant describing sanitary arrangement and facilities to be used by the public and employees at the event site shall be approved, in writing, by the county environmental health officer.

2. The applicant shall demonstrate, via written narrative and, if required by staff, a site plan, that adequate provisions for off street parking and loading will be made for the traffic generated by the event and that there will be no undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.

3. Impacts on adjacent uses shall be minimized through limitations on operating hours and reasonable measures to limit off-site noise and lighting. Limitations on operating hours and lighting shall be at the sole discretion of Sumter County staff, based on its assessment of the impact of the event on the surrounding community. The event is subject to all applicable local noise ordinances and the enforcement and penalty provisions included in same.

4. The applicant shall demonstrate adequate litter control via written narrative and, if requested by staff, in a formal site plan.

5. All other standards of review or requirements set forth in this code may be modified, relaxed or not imposed at all in the approval of a special event permit upon a finding by ~~the reviewing authority staff~~ that a rational basis exists for finding that no other standards or requirements are necessary. In addition, ~~the reviewing authority~~ staff may authorize a single event to be monitored with the capability of adding additional requirements if the experience of the first event warrants such additional or modified conditions or requirements.

c. In cases where it is ~~deemed found to be necessary by staff~~, the Sumter County Commission may require, at its sole discretion, the applicant to post a bond to insure compliance with the conditions of the temporary use approval.

d. If the applicant requests the county ~~to~~ provide extraordinary services or equipment, and upon the submission of such request by staff, or if the Sumter County e Commission determines that such services or equipment are is necessary to protect the public health, safety or welfare, the applicant shall be required to pay to the provider of such services and equipment a fee sufficient to cover applicable the costs, of the service.

e. Except for permits required per the building code or fire prevention code (life-safety), the limitations of this subsection shall not apply to any event held at the Sumter County Fairgrounds or on property owned or controlled by the Sumter County School Board.

f. The Sumter County Commission may by resolution exempt certain locations in the county from the provisions of this subsection upon a showing of the existence of sufficient facilities and infrastructure for such events and a rational basis for

Comment [b21]: No change form current regulations. Changes clarify procedure.

Comment [b22]: Exempts the Sumter County Fairgrounds and Sumter County School Board property from permitting with the exception of required building and fire code permits. Reflects current procedures.

such exemption. Staff shall provide a recommendation to the Sumter County Commission concerning each such exemption request.

Comment [b23]: Provides Board authority to exempt specific areas of the county from the special event regulations upon the approval of a resolution.

SECTION IV. AMENDMENT OF CHAPTER 14 CODE OF ORDINANCES.

Chapter 14, Article III shall be retitled as “Solicitation of Charitable Contributions in Rights of Way”.

Chapter 14, Article III, Sections 14-76, 14-77, and 14-78 of the Sumter County Code are hereby stricken in their entirety. The stricken sections shall be codified as “Reserved” to preserve numerical order.

Comment [b24]: Simply retitles and reorganizes Chapter 14 of the Code of Ordinances.

SECTION V. CONFLICTS AND REPEALER. This Ordinance shall be cumulative of all provisions of the ordinances of the Sumter County, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION VI. CODIFICATION. It is the intention of the Board of County Commissioners of Sumter County, Florida that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Sumter County, Florida and the word “ordinance,” or similar words may be changed to “section,” “article,” or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention. The codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION VII. EFFECTIVE DATE. This Ordinance shall take effect and be in force on _____.

DONE AND ORDERED THIS _____ day of _____, 2010

GLORIA HAYWARD
Clerk of the Circuit Court

COUNTY OF _____

By:

Attest:

_____, Clerk

Doug Gilpin, Chairman

Approved as to legal form
for Sumter County only:

_____, Attorney

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DRAFT